

February 19, 2025

President Trump Orders Development of Plan to Impose Reciprocal Tariffs

Plan Would Impose Reciprocal Tariffs Globally, but Level of Tariffs Remains Unknown

SUMMARY

On February 13, 2025, President Donald J. Trump signed a Memorandum (the “Memorandum”) directing the U.S. Trade Representative and the Secretary of Commerce, in consultation with other agencies, to develop a plan for imposing reciprocal tariffs on each country that trades with the United States, referred to as the “Fair and Reciprocal Plan” (the “Plan”).¹ In setting tariff rates, the Plan would take into account a series of factors, including tariffs on U.S. products by other countries and any “unfair, discriminatory, or extraterritorial” measures imposed by those countries.² The U.S. Trade Representative and the Secretary of Commerce are expected to deliver reports to President Trump within the coming months detailing recommended levels of reciprocal tariffs.

BACKGROUND AND RECENT EVENTS

The Memorandum and the associated Plan are the latest in a series of aggressive tariff-related actions taken by President Trump in the first months of his administration. On January 20, 2025, President Trump signed the [America First Trade Policy Memorandum](#), which directed federal agencies to conduct a comprehensive review of U.S. trade policies.³ On February 1, 2025, President Trump issued [Executive Orders](#) imposing tariffs on Canada, Mexico, and China. The Trump administration suspended the tariffs on Canada and Mexico for 30 days, however, after Canadian Prime Minister Justin Trudeau and Mexican President Claudia Sheinbaum agreed to increase border enforcement efforts in response to President Trump’s demands, but the tariffs on China went into effect on February 4, 2025.⁴ More recently, President Trump also issued [two proclamations](#) on February 10 and 11, 2025 to raise tariffs on steel and aluminum to 25% of a product’s value.

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AUTHORITIES

The Memorandum does not specify the legal authorities on which the Plan or the impending tariffs will be based. Rather, it provides that the relevant U.S. officials “shall initiate, *pursuant to their respective legal authorities*, all necessary actions to investigate the harm to the United States from any non-reciprocal trade arrangements adopted by any trading partners.”⁵ President Trump’s previous tariff-related orders have relied on various statutes—principally, Section 232 of the Trade Expansion Act of 1962, which authorizes the Department of Commerce, in consultation with the Department of Defense, to review imports and trade practices for potential threats to U.S. national security; Section 604 of the Trade Act of 1974, which provides various forms of potential relief from harms caused by international trade. and the International Emergency Economic Powers Act of 1977 (“IEEPA”), which requires an extraordinary threat to the national security, foreign policy, or economy of the United States, and which had not previously been invoked by any other U.S. president to impose tariffs.

DETAILS

Regarding the specifics and timing of the Plan, the Memorandum details that:

1. the Secretary of Commerce and the U.S. Trade Representative will begin their investigation into “the harm to the United States from any non-reciprocal trade arrangements adopted by any trading partners” after the agency reports on the causes of the trade deficit and recommendations to address them, due on April 1, 2025 under the above-referenced America First Trade Policy Memorandum, are submitted to President Trump;
2. the Secretary of Commerce and the U.S. Trade Representative will then submit a report “detailing proposed remedies in pursuit of reciprocal trade relations with each trading partner” to President Trump; and
3. within 180 days of the issuance of the Memorandum, the Director of the Office of Management and Budget “shall assess all fiscal impacts on the Federal Government and the impacts of any information collection requests on the public, and shall deliver an assessment in writing to the President.”

The Memorandum further states that, in devising new tariff rates, the Trump administration will seek to rectify aspects of current U.S. trade relationships that are “non-reciprocal,” and will consider any:

1. “tariffs imposed on United States products”;
2. “unfair, discriminatory, or extraterritorial taxes imposed by our trading partners on United States businesses, workers, and consumers, including a value-added tax”;
3. “costs to United States businesses, workers, and consumers arising from nontariff barriers or measures” and any other unfair or harmful acts, policies, or measures;
4. “policies and practices that cause exchange rates to deviate from their market value, to the detriment of Americans; wage suppression; and other mercantilist policies that make United States businesses and workers less competitive”; and
5. any other practices that U.S. officials conclude impose “any unfair limitation on market access or any structural impediment to fair competition with the market economy of the United States.”

OBSERVATIONS AND IMPLICATIONS

The tariffs contemplated by the Memorandum represent a significant departure from previous U.S. trade policy. When imposed, these tariffs could have broader and less predictable effects than other recently announced trade measures.⁶

First, the tariffs could inject considerable uncertainty into the economic, legal, and regulatory landscape. Some economists have predicted that broad-based reciprocal tariffs will significantly increase the costs of raw materials for U.S. companies, which, in turn, could trigger substantial spikes in consumer prices, resulting in higher inflation.⁷ In addition, companies that previously structured their financial and geographic footprints based on particular economic, political, and regulatory assumptions—including local tax rates, costs of labor, shipping costs, and other supply chain considerations—will now have to account for an entirely new set of variables arising from an evolving and more complicated tariffs regime.

Second, there are multiple potential approaches to calculating reciprocal tariffs, and it remains to be seen exactly how the Trump administration will proceed. One approach would be to calculate rates based solely on product-level reciprocity by country, seeking to impose the same tariffs on other countries as they impose on the United States. Another approach would be to account for tariff *and* non-tariff costs imposed by such countries, including other fees and taxes. The Memorandum generally favors the latter approach, stating that rates should account for other countries' taxes and other non-tariff measures, and should factor in "losses as a result of measures that disadvantage the United States. . . regardless of what they are called or whether they are written or unwritten."⁸ Under this latter approach, a number of countries—including Japan and countries in the European Union—would likely face significantly higher reciprocal tariffs than those that they impose on U.S. goods.⁹

Third, it seems inevitable that other countries will respond or retaliate by raising tariffs on U.S. goods and, in some instances, by seeking to negotiate lower rates.¹⁰ Although such responses and negotiations could eventually lead to the reduction or removal of tariffs, the varying and multi-faceted nature of these discussions will make it more difficult for companies to track and predict potential impacts on their operations and balance sheets. Companies therefore will need to spend increased time and resources on monitoring the complex business and legal implications of tariffs for their global supply chains.

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ENDNOTES

- 1 <https://www.whitehouse.gov/articles/2025/02/reciprocal-trade-and-tariffs/>.
- 2 *Id.*
- 3 <https://www.whitehouse.gov/presidential-actions/2025/01/america-first-trade-policy/>.
- 4 <https://www.reuters.com/world/us/trump-says-americans-may-feel-pain-trade-war-with-mexico-canada-china-2025-02-03/>.
- 5 <https://www.whitehouse.gov/articles/2025/02/reciprocal-trade-and-tariffs/>(emphasis added).
- 6 <https://www.nytimes.com/2025/02/13/us/politics/trump-tariffs.html>.
- 7 <https://www.newsweek.com/donald-trump-announces-reciprocal-tariffs-2030529>.
- 8 <https://www.whitehouse.gov/articles/2025/02/reciprocal-trade-and-tariffs/>.
- 9 <https://www.msn.com/en-us/money/markets/trump-orders-federal-agencies-to-study-reciprocal-tariffs/ar-AA1z05k6?ocid=BingNewsSerp>.
- 10 <https://www.newsweek.com/donald-trump-announces-reciprocal-tariffs-2030529>.

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